

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

THE PEOPLE,

Plaintiff and Respondent,

v.

THOMAS SPRADLIN,

Defendant and Appellant.

C044155

(Super. Ct. No. CM018613)

Defendant Thomas Spradlin entered a negotiated plea of no contest to second degree burglary (Pen. Code, § 459). In exchange for his plea, allegations of two prior prison terms (*id.*, § 667.5, subd. (b)) were dismissed and the People agreed not to allege a prior strike (*id.*, §§ 667, subds. (a)-(i), 1170.12).

The trial court sentenced defendant to the upper term of three years in state prison. The court imposed restitution fines of \$600 in accordance with Penal Code sections 1202.4 and 1202.45, victim restitution in the amount of \$150 (*id.*,

§ 1202.4, subd. (f)), and a \$29 crime prevention fine, including state and county penalty assessments and a court surcharge (*id.*, §§ 1202.5, 1464; Gov. Code, § 76000). Defendant was awarded 95 days of custody credit and 46 days of conduct credit (Pen. Code, § 4019).

Defendant filed a notice of appeal and requested the trial court issue a certificate of probable cause. (Pen. Code, § 1237.5.) The request for a certificate of probable cause was denied.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant.

Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant. We do, however, note an error in the preparation of the abstract of judgment. Item 5.f. of the abstract of judgment fails to reflect that the trial court imposed a \$29 theft fine, including the \$10 crime prevention fine (Pen. Code, § 1202.5), the corresponding state and county penalty assessments totaling \$17 (*id.*, § 1464; Gov. Code, § 76000) and a \$2 court surcharge (Pen. Code, § 1465.7). We shall order the abstract corrected to reflect the oral

pronouncement of the court. (See *People v. Sanchez* (1998) 64 Cal.App.4th 1329, 1331-1332 [correcting abstract to reflect mandatory laboratory fee orally imposed]; *People v. Hong* (1998) 64 Cal.App.4th 1071, 1074-1084 [correcting abstract to reflect restitution fine and mandatory DNA testing orally imposed]; *People v. Goodwin* (1997) 59 Cal.App.4th 1084, 1094, fn. 8 [correcting abstract to reflect restitution fine orally imposed].)

DISPOSITION

The judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting that defendant was ordered to pay a \$29 theft fine, including a \$10 crime prevention fine, the \$17 corresponding state and county penalty assessments and a \$2 court surcharge, and to forward a certified copy of the amended abstract to the Department of Corrections.

_____, BUTZ, J.

We concur:

_____, SCOTLAND, P. J.

_____, MORRISON, J.

